

REMARKS

Claims 1-2, 9-10, 17, 19, 29-31, 33, 41, 46-51, and 54-59 are pending in the present application. Claims 29-31, 33, 41, 46-47, 55-59 have been withdrawn from consideration. No claim amendment is made. Thus, claims 1-2, 9-10, 17, 48-51 and 54 are under consideration.

Withdrawn Objections and Rejections

Applicants acknowledge with appreciation that claim objects raised in the previous Office Action is withdrawn. Applicants acknowledge with appreciation that claim rejections under 35 U.S.C. §112, first paragraph raised in the previous Office Action is withdrawn.

Provisional Obviousness-Type Double Patenting

Claims 1, 2, 17, 48-51 and 54 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1-2 and 64-73 of co-pending Application No. 11/997,650. This provisional non-obviousness-type double patenting rejection is the only remaining rejection in the present application.

MPEP § 804.I.B(1) states,

If a “provisional” non-statutory obviousness-type double patenting rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer.

Applicants respectfully submit that the present application has an international filing date of November 13, 2003 and claims priority to a provisional application filed on November 15, 2002. The co-pending Application No. 11/997,650, by contrast, has an international filing date of August 1, 2006 and claims priority to a provisional application filed on August 1, 2005. The present application therefore is an earlier filed patent application. Applicants respectfully submit that, under

MPEP § 804.I.B(1), the provisional non-statutory obviousness-type double patenting rejection against the present application should be withdrawn.

Thus, Applicants respectfully request that the non-statutory obviousness-type double patenting rejection be withdrawn and the present application be allowed.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections of and objections to the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 577712000200. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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